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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/327,593	06/08/1999	MARY E. FARMER BROCK	118776-1	5630

7590 10/16/2002

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EXAMINER

RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
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2175

DATE MAILED: 10/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/327,593

Applicant(s)

BROCK ET AL.

Examiner

Sam Rimell

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-7 and 9-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10, 11, 14-17, 22 is/are allowed.
- 6) ☒ Claim(s) 3-7, 12-13, 18-28 is/are rejected.
- 7) ☒ Claim(s) 2 and 9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3-7, 12-13 and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Sauder ('876).

Figure 6 of Sauder discloses rectangular, flat base members which support wall sections in the form of vertical posts mounted at edges of the base members. Each post includes grooves with openings at their upper ends so as to support a wall panel between the posts. The base members also include grooves which are aligned with the grooves in the vertical posts so as to support the wall panels. Figure 6 is only a partial view of a construction for a set of walls, and it is clear that any number of base members, posts or wall sections can be deployed in a given construction. With respect to the surface designs on the walls, it is noted that a blank wall would read on a surface design that is a "miniature building décor". Since the phrase "miniature building décor" is broad enough to include blank walls, the set of blank walls shown by Sauder will read as a such a décor.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauder in view of French ('849).

Sauder differs from the claims in that it does not include specific types of indicia on its walls.

French teaches a rectangular frame building (14) in which wall panels (28) can be inserted within the frame. As seen in FIG. 3, the panels are painted with indicia representing outdoor scenery, a miniature object (60) which also reads as a painting and outdoor scenery (houses and hills). It would have been obvious to one of ordinary skill in the art to modify the building walls of Sauder to include the specific indicia of French for purposes design, amusement or entertainment, as taught by French (col. 1, lines 63-65 of French).

Claims 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauder ('849).

Sauder differs from the claims in that it does not disclose specific types of indicia on its walls, such as outdoor scenery, objects and paintings. Examiner takes Official Notice that placing indicia on the walls of a housing structure has been known in the art for centuries. The principle of painting various out door scenery, objects, or even simulations of structures such as windows and doors is extremely well known in the art, and has been practiced by interior decorators for at least several centuries.

It would have been obvious to one of ordinary skill in the art to apply indicia to the walls of Sauder for the purpose and advantage of interior decoration as is very well known in the art.

Claims 2 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 10-11, 14-17 and 22 are allowed.

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Remarks

Applicant's arguments have been considered but are not well taken. With respect to the consideration of specific types of indicia on wall panels, it is not the Examiner's position that these features are being ignored. Rather, it is the Examiner's position that these features are obvious modifications to the Sauder reference, taught by both prior art reference and well known practices.

The citation of *In re Gulack* only pertains to the question of whether these types of indicia should be attributed patentable weight. It does not pertain to the question of whether the application of such indicia would have been obvious to one of ordinary skill in the art.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

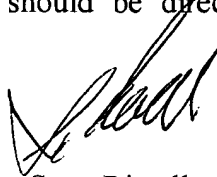
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.

A handwritten signature in black ink, appearing to read 'S. Rimell', is written over the printed name.

Sam Rimell
Primary Examiner
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